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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,065

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Nancy Lucas

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EXAMINER

PASCUA, JES F

ART UNIT

PAPER NUMBER

3782

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DELIVERY MODE

09/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/657,065	Applicant(s) LUCAS ET AL.	
	Examiner Jes F. Pascua	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-17,19,20,22-30,32,42,44,46-54,56,57,59,61 and 63-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-17,19,20,22-30,32,42,44,46-54,56,57,59,61 and 63-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 5, 15, 29, 32 and 70 are objected to because of the following informalities: The recitation that h “the opposing panels, stacks of panels, or both are sealed to each other by a distal seal” is redundant because as set forth in the claims, the “stacks of panels” are “formed from the first portions of the opposing panels”. Furthermore, the recitation “a distal seal distal to the non-resealable first seam” is redundant. Since claims recite the location of the seal with respect to the non-resealable first seam, it is unclear why the modifier “distal” preceding the term “seal” is necessary. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 66-69 and 74 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, lacks antecedent basis for the distal seal being “substantially coextensive with the surface

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area of the double stack of panels distal to the non-resealable first seam". This is a new matter rejection.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 66-69 and 74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 66-69 and 74, the recitation that "the distal seal is substantially coextensive with the surface area of the double stack of panels" appears to require the entire surface area of the double stack of panels to be sealed, which contradicts the recitation "distal to the non-resealable first seam" in claims 5, 15, 29, 32, 66-70 and 74. The surface area of the double stack of panels is formed by folding the first flap, wherein the first flap is "formed from first portions of the opposing panels extending in longitudinal direction beyond the first seam". Therefore, the surface area of the double stack of panels would be adjacent, not distal, to the first seam.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 4, 5, 8-17, 19, 20, 24-30, 32, 42, 44, 48-54, 56, 57, 59, 61 and 63-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,593,229 to Warr, Patent Application Publication No. 20030235348 to Pape and U.S. Patent No. Des. 327,217 to Wallace.

Warr discloses the claimed invention, especially the handle comprising a patch. However, Warr does not show the handle formed from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. Pape shows that it is known in the art to form handle from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to a non-resealable seam. See Figs. 3 and 4. It would have been obvious to a person having ordinary skill at the time the invention was made to form the handle of Warr from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam, as taught by Pape, in order to increase the carrying strength of the handle.

Furthermore, Warr and Pape disclose the claimed invention, as discussed above. Warr especially discloses an end of a bag including a tear seam. However, Warr does not show the opposite end of the bag including a handle and tear seam. Wallace teaches that it is known in the art of bags to provide a mirror image of one end of a bag at the bag's opposing end (Fig. 7). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the opposing ends of the modified Warr bag with identical end structures (i.e., the modified Warr handle and tear seam), as taught by Wallace, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

8. Claims 2, 4-10, 13-15, 19, 20, 22-25, 27-29, 32, 42, 44, 46-50, 53, 54, 59, 61 and 63-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warr, Patent Application Publication No. 20030235348 to Pape and U.S. Patent No. 5,578,562 to Anspacher.

Warr discloses the claimed invention, especially the handle comprising a patch. However, Warr does not show the handle formed from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. Pape shows that it is known in the art to form handle from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the

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longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. See Figs. 3 and 4. It would have been obvious to a person having ordinary skill at the time the invention was made to form the handle of Warr from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam, as taught by Dollheimer et al., in order to increase the carrying strength of the handle.

Furthermore, Warr and Pape disclose the claimed invention, as discussed above, except for a rigid plastic handle on the end of the bag opposing the bag end with the integral handle. Anspacher teaches that it is known in the art of bags to provide a rigid plastic handle on a bag end that is opposite the bag end that includes an integral handle. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the rigid plastic handle of Anspacher on the end opposite the end with the integral handle in the modified Warr bag, in order to facilitate manipulating the bag. Regarding claims 7, 23 and 47, the recitation "injection-molded plastic handle" does not define over the rigid plastic handle of Anspacher. The method of forming the handle is not germane to the issue of patentability of the handle itself. Therefore, this limitation has been given little patentable weight.

Response to Arguments

9. Applicant's arguments with respect to claims 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-74 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/

Primary Examiner, Art Unit 3782